
SENATE BILL 5413

State of Washington

55th Legislature

1997 Regular Session

By Senators Kohl, Bauer and Patterson; by request of Governor Lowry

Read first time 01/24/97. Referred to Committee on Higher Education.

1 AN ACT Relating to the Washington advanced college tuition payment
2 program; and adding a new chapter to Title 28B RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The Washington advanced college tuition
5 payment program is established to help make higher education affordable
6 and accessible to all citizens of the state of Washington by offering
7 a savings incentive that will protect purchasers and beneficiaries
8 against rising tuition costs. The program is designed to encourage
9 savings and enhance the ability of Washington citizens to obtain
10 financial access to institutions of higher education. In addition, the
11 program encourages elementary and secondary school students to do well
12 in school as a means of preparing for and aspiring to higher education
13 attendance. This program is intended to promote a well-educated and
14 financially secure population to the ultimate benefit of all citizens
15 of the state of Washington.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter, unless the context clearly requires otherwise.

- 1 (1) "Academic year" means the regular nine-month, three-quarter, or
2 two-semester period annually occurring between July 1st and June 30th.
- 3 (2) "Account" means the tuition trust account established for the
4 deposit of all money received by the board from eligible purchasers and
5 interest earnings on investments of funds in the account, as well as
6 for all expenditures on behalf of eligible beneficiaries for the
7 redemption of tuition units.
- 8 (3) "Board" means the higher education coordinating board as
9 defined in chapter 28B.80 RCW.
- 10 (4) "Eligible beneficiary" means the person for whom the tuition
11 unit will be redeemed for attendance at an institution of higher
12 education. The beneficiary is that person named by the purchaser at
13 the time that a tuition unit contract is accepted by the board. With
14 the exception of tuition unit contracts purchased by qualified
15 organizations as future scholarships, the beneficiary must reside in
16 the state of Washington or otherwise be a resident of the state of
17 Washington at the time the tuition unit contract is accepted by the
18 board.
- 19 (5) "Eligible purchaser" means an individual or organization that
20 has entered into a tuition unit contract with the board for the
21 purchase of tuition units for an eligible beneficiary.
- 22 (6) "Full-time tuition charges" means resident tuition charges at
23 a state institution of higher education for enrollments between ten
24 credits and eighteen credit hours per academic term.
- 25 (7) "Institution of higher education" means an institution that
26 offers education beyond the secondary level and is accredited by a
27 nationally recognized accrediting association or is licensed to do
28 business in the state in which it is located.
- 29 (8) "Investment board" means the state investment board as defined
30 in chapter 43.33A RCW.
- 31 (9) "State guarantee" means the promise of the state to the
32 purchaser and the beneficiary that purchases of tuition units will be
33 worth the same number of tuition units at the time of redemption as
34 they were worth at the time of the purchase.
- 35 (10) "State institution of higher education" means institutions of
36 higher education as defined in RCW 28B.10.016.
- 37 (11) "Tuition and fees" means tuition and services and activities
38 fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest
39 whole dollar. The maximum tuition and fees charges recognized for

1 beneficiaries enrolled in a state technical college shall be equal to
2 the tuition and fees for the community college system.

3 (12) "Tuition unit contract" means a contract between an eligible
4 purchaser and the board, or a successor agency appointed for
5 administration of this chapter, for the purchase of tuition units for
6 a specified beneficiary that may be redeemed at a later date for an
7 equal number of tuition units.

8 (13) "Unit purchase price" means the minimum cost to purchase one
9 tuition unit time for an eligible beneficiary. Generally, the minimum
10 purchase price is one percent of the weighted average tuition and fees
11 for the current year, rounded to the nearest whole dollar, adjusted for
12 the costs of administration and adjusted to ensure the actuarial
13 soundness of the account.

14 (14) "Weighted average tuition" shall be calculated as the sum of
15 the undergraduate tuition and services and activities fees for each
16 four-year state institution of higher education, multiplied by the
17 respective full-time equivalent student enrollment at each institution
18 divided by the sum total of undergraduate full-time equivalent student
19 enrollments of all four-year state institutions of higher education,
20 rounded to the nearest whole dollar.

21 (15) "Weighted average tuition unit" is the value of the weighted
22 average tuition and fees divided by one hundred. The weighted average
23 is the basis upon which tuition benefits are calculated for graduate
24 program enrollments and for attendance at nonstate institutions of
25 higher education and is the basis for any refunds provided from the
26 program.

27 NEW SECTION. **Sec. 3.** (1) The Washington advanced college tuition
28 payment program shall be administered by the board.

29 (2) The board shall review its administration of the program and
30 make a recommendation to the legislature by the end of the second year
31 after the effective date of this section as to whether continued
32 responsibility for the program should reside with the board or be
33 assigned to another state agency or state entity.

34 (3)(a) The Washington advanced college tuition payment program
35 shall consist of the sale of tuition units, which may be redeemed by
36 the beneficiary at a future date for an equal number of tuition units
37 regardless of any increase in the price of tuition, that may have
38 occurred in the interval.

1 (b) Each purchase shall be worth a specific number of or fraction
2 of tuition units at each state institution of higher education as
3 determined by the board.

4 (c) The number of tuition units necessary to pay for a full year's,
5 full-time tuition and fee charges at a state institution of higher
6 education shall be set by the board at the time a purchaser enters into
7 a tuition unit contract.

8 (d) The board may limit the number of tuition units purchased by
9 any one purchaser or on behalf of any one beneficiary, however, no
10 limit may be imposed that is less than that necessary to achieve four
11 years of full-time, undergraduate tuition charges at a state
12 institution of higher education. The board also may, at its
13 discretion, limit the number of participants, if needed, to ensure the
14 actuarial soundness and integrity of the program.

15 (4)(a) No tuition unit may be redeemed until two years after the
16 purchase of the unit. Units may be redeemed for enrollment at any
17 institution of higher education.

18 (b) Units redeemed at a nonstate institution of higher education or
19 for graduate enrollment shall be redeemed at the current weighted
20 average tuition unit in effect at the time of redemption.

21 (5) The board shall determine the conditions under which the
22 tuition benefit may be transferred to another family member. In
23 permitting such transfers, the board may not allow the tuition benefit
24 to be bought, sold, bartered, or otherwise exchanged for goods and
25 services by either the beneficiary or the purchaser.

26 (6) The board shall administer the Washington advanced college
27 tuition payment program in a manner reasonably designed to be
28 actuarially sound, such that the assets of the trust will be sufficient
29 to defray the obligations of the trust including the costs of
30 administration. The board may, at its discretion, discount the minimum
31 purchase price for certain kinds of purchases such as those from
32 families with young children, as long as the actuarial soundness of the
33 account is not jeopardized.

34 (7) The board shall annually determine current value of a tuition
35 unit and the value of the weighted average tuition unit.

36 (8) The board shall promote, advertise, and publicize the
37 Washington advanced college tuition payment program.

38 (9) In addition to any other powers conferred by this chapter, the
39 board may:

- 1 (a) Impose reasonable limits on the number of tuition units or
2 units that may be used in any one year;
- 3 (b) Determine and set any time limits, if necessary, for the use of
4 benefits under this chapter;
- 5 (c) Impose and collect administrative fees and charges in
6 connection with any transaction under this chapter;
- 7 (d) Appoint and use advisory committees as needed to provide
8 program direction and guidance;
- 9 (e) Formulate and adopt all other policies and rules necessary for
10 the efficient administration of the program;
- 11 (f) Consider the addition of an advanced payment program for room
12 and board contracts and also consider a college savings program;
- 13 (g) Purchase insurance from insurers licensed to do business in the
14 state, to provide for coverage against any loss in connection with the
15 account's property, assets, or activities or to further insure the
16 value of the tuition units;
- 17 (h) Make, execute, and deliver contracts, conveyances, and other
18 instruments necessary to the exercise and discharge of its powers and
19 duties under this chapter;
- 20 (i) Contract for the provision for all or part of the services
21 necessary for the management and operation of the program with other
22 state or nonstate entities authorized to do business in the state;
- 23 (j) Contract for other services or for goods needed by the board in
24 the conduct of its business under this chapter;
- 25 (k) Employ all personnel as necessary to carry out its
26 responsibilities under this chapter and to fix the compensation of
27 these persons;
- 28 (l) Contract with financial consultants, actuaries, auditors, and
29 other consultants as necessary to carry out its responsibilities under
30 this chapter;
- 31 (m) Solicit and accept cash donations and grants from any person,
32 governmental agency, private business, or organization; and
- 33 (n) Perform all acts necessary and proper to carry out the duties
34 and responsibilities of this program under this chapter.

35 NEW SECTION. **Sec. 4.** The board may, at its discretion, allow an
36 organization to purchase tuition units for future use as scholarships.
37 Such organizations electing to purchase tuition units for this purpose
38 must enter into a contract with the board which, at a minimum, ensures

1 that the scholarship shall be freely given by the purchaser to a
2 scholarship recipient. For such purchases, the purchaser need not name
3 a beneficiary until four months before the date when the tuition units
4 are first expected to be used.

5 The board shall formulate and adopt such rules as are necessary to
6 determine which organizations may qualify to purchase tuition units for
7 scholarships under this section. The board also may consider
8 additional rules for the use of tuition units if purchased as
9 scholarships.

10 The board may establish its own scholarship fund under this
11 chapter. Scholarships issued by the board under this section shall be
12 given to students who demonstrate financial need. Financial need is
13 not a criterion that any other organization need consider when using
14 tuition units as scholarships.

15 NEW SECTION. **Sec. 5.** The Washington advanced college tuition
16 payment program is an essential state governmental function. A state
17 guarantee is pledged to the program to ensure that the board will meet
18 its full obligations to each beneficiary for whom tuition units have
19 been purchased. If, and only if, the moneys in the account are
20 projected to be insufficient to cover the state's contracted expenses
21 for a given biennium, then the legislature shall appropriate to the
22 account the amount necessary to cover such expenses.

23 The tuition and fees charged by a state institution of higher
24 education to an eligible beneficiary for a current enrollment shall be
25 paid by the account to the extent the beneficiary has remaining unused
26 tuition units for the appropriate school. The tuition and fees charged
27 to a beneficiary for graduate level enrollments or by a nonstate
28 institution of higher education shall be paid by the account to the
29 extent that the beneficiary has remaining weighted average tuition
30 units.

31 NEW SECTION. **Sec. 6.** (1) The advanced college tuition payment
32 program account is created in the custody of the state treasurer. The
33 account shall be a discrete nontreasury account exempt from chapter
34 43.79A RCW.

35 (2) The board shall deposit in the account all money received for
36 the program. The account shall be self-sustaining and consist of
37 payments received from purchasers of tuition units and funds received

1 from other sources, public or private. With the exception of
2 investment and operating costs associated with the investment of money
3 by the investment board paid under RCW 43.33A.160 and 43.84.160, the
4 account shall be credited with all investment income earned by the
5 account. Disbursements from the account are exempt from appropriations
6 and the allotment provisions of chapter 43.88 RCW. Money used for
7 program administration is subject to the allotment and budgetary
8 controls of chapter 43.88 RCW, but no appropriation is required for
9 expenditures.

10 (3) The assets of the account may be spent for the purpose of
11 making payments to institutions of higher education on behalf of the
12 qualified beneficiaries, making refunds, transfers, or direct payments
13 upon the termination of the Washington advanced college tuition payment
14 program, and paying the costs of administration of the program.
15 Disbursements from the account shall be made only on the authorization
16 of the board.

17 NEW SECTION. **Sec. 7.** (1) The investment board has the full power
18 to invest, reinvest, manage, contract, sell, or exchange investment
19 money in the account. All investment and operating costs associated
20 with the investment of money shall be paid pursuant to RCW 43.33A.160
21 and 43.84.160. With the exception of these expenses, the earnings from
22 the investment of the money shall be retained by the account.

23 (2) All investments made by the investment board shall be made with
24 the exercise of that degree of judgment and care, under circumstances
25 then prevailing, that persons of prudence, discretion, and intelligence
26 exercise in the management of their own affairs, not for speculation
27 but for investment, considering the probable safety of their capital as
28 well as the probable income to be derived.

29 (3) As deemed appropriate by the investment board, money in the
30 account may be commingled for investment with other funds subject to
31 investment by the board.

32 (4) The authority to establish all policies relating to the
33 account, other than the investment policies as set forth in subsections
34 (1) through (3) of this section, resides with the board. With the
35 exception of expenses of the investment board set forth in subsection
36 (1) of this section, disbursements from the account shall be made only
37 on the authorization of the board, and money in the account may be

1 spent only for the purposes of the program as specified in this
2 chapter.

3 (5) The investment board shall routinely consult and communicate
4 with the board on the investment policy, earnings of the trust, and
5 related needs of the program.

6 NEW SECTION. **Sec. 8.** The board shall annually evaluate, and cause
7 to be evaluated by a nationally recognized actuary, the soundness of
8 the account and determine the additional assets needed, if any, to
9 defray the obligations of the account.

10 If funds are not sufficient to ensure the actuarial soundness of
11 the account, the account shall adjust the price of subsequent tuition
12 credit purchases to ensure its soundness.

13 If there are insufficient numbers of new purchases to ensure the
14 actuarial soundness of the account, the board shall request such funds
15 from the legislature as are required to ensure the integrity of the
16 program. Funds may be appropriated directly to the account or
17 appropriated under the condition that they be repaid at a later date.
18 The repayment shall be made at such time that the account is again
19 determined to be actuarially sound.

20 NEW SECTION. **Sec. 9.** (1) In the event that the state determines
21 that the program is not financially feasible, the state may declare the
22 discontinuance of the program. At the time of such declaration, the
23 board will cease to accept any further tuition unit contracts or
24 purchases.

25 (2) The remaining tuition units for all beneficiaries who have
26 either enrolled in higher education or who are within four years of
27 graduation from a secondary school shall be honored until such tuition
28 units have been exhausted, or for ten fiscal years from the date that
29 the program has been discontinued, whichever comes first. All other
30 contract holders shall receive a refund equal to the value of the
31 current weighted average tuition units in effect at the time that the
32 program was declared discontinued.

33 (3) At the end of the ten-year period, any tuition units remaining
34 unused by currently active beneficiaries enrolled in higher education
35 shall be refunded at the value of the current weighted average tuition
36 unit in effect at the end of that ten-year period.

1 (4) At the end of the ten-year period, all other funds remaining in
2 the account not needed to make refunds or to pay for administrative
3 costs shall be deposited to the state general fund.

4 (5) The board may make refunds under other exceptional
5 circumstances as it deems fit, however, no tuition units may be honored
6 after the end of the tenth fiscal year following the declaration of
7 discontinuance of the program.

8 NEW SECTION. **Sec. 10.** (1) The board, in planning and devising the
9 program, shall consult with the investment board, the state treasurer,
10 the state actuary, the office of financial management, and the
11 institutions of higher education.

12 (2) The board may seek the assistance of the state agencies named
13 in subsection (1) of this section, private financial institutions, and
14 any other qualified party with experience in the areas of accounting,
15 actuary, risk management, or investment management to assist with
16 preparing an accounting of the program and ensuring the fiscal
17 soundness of the account.

18 (3) State agencies and public institutions of higher education
19 shall fully cooperate with the board in matters relating to the program
20 in order to ensure the solvency of the account and ability of the board
21 to meet outstanding commitments.

22 NEW SECTION. **Sec. 11.** This chapter shall not be construed as a
23 promise that any beneficiary shall be granted admission to any
24 institution of higher education, will earn any specific or minimum
25 number of academic credits, or will graduate from any such institution.
26 In addition, this chapter shall not be construed as a promise of either
27 course or program availability.

28 Participation in this program does not guarantee an eligible
29 beneficiary the right to resident tuition and fees. To qualify for
30 resident and respective tuition subsidies, the eligible beneficiary
31 must meet the applicable provisions of RCW 28B.15.011 through
32 28B.15.015.

33 This chapter shall not be construed to imply that the redemption of
34 tuition units shall be equal to any value greater than the
35 undergraduate tuition and services and activities fees at a state
36 institution of higher education. Eligible beneficiaries will be
37 responsible for payment of any other fee that does not qualify as a

1 services and activities fee including, but not limited to, any expenses
2 for tuition surcharges, tuition overload fees, laboratory fees,
3 equipment fees, book fees, rental fees, room and board charges, or
4 fines.

5 NEW SECTION. **Sec. 12.** (1) The intent of the Washington advanced
6 college tuition payment program is to redeem tuition units for
7 attendance at an institution of higher education. Refunds shall be
8 issued under specific conditions that may include the following:

9 (a) Certification that the beneficiary, who is eighteen years of
10 age or older, will not attend an institution of higher education, will
11 result in a refund not to exceed ninety-five percent of the current
12 weighted average tuition and fees in effect at the time of such
13 certification. No more than one hundred tuition units may be refunded
14 per year to any individual making this certification. The refund shall
15 be made no sooner than ninety days after such certification, less any
16 administrative processing fees assessed by the board. The board may,
17 at its discretion, impose a greater penalty;

18 (b) If there is certification of the death or disability of the
19 beneficiary, the refund shall be equal to one hundred percent of any
20 remaining unused tuition units valued at the current weighted average
21 tuition units at the time that such certification is submitted to the
22 board, less any administrative processing fees assessed by the board;

23 (c) If there is certification by the student of graduation or
24 program completion, the refund may be as great as one hundred percent
25 of any remaining unused weighted average tuition units at the time that
26 such certification is submitted to the board, less any administrative
27 processing fees assessed by the board. The board may, at its
28 discretion, impose a penalty if needed to comply with federal tax
29 rules;

30 (d) Certification of other tuition and fee scholarships, which will
31 cover the cost of tuition for the eligible beneficiary. The refund
32 shall be equal to one hundred percent of the current weighted average
33 tuition units in effect at the time of the refund request, plus any
34 administrative processing fees assessed by the board. The refund under
35 this subsection may not exceed the value of the scholarship;

36 (e) Incorrect or misleading information provided by the purchaser
37 or beneficiaries may result in a refund of the purchaser's investment,
38 less any administrative processing fees assessed by the board. The

1 value of the refund will not exceed the actual dollar value of the
2 purchaser's contributions; and

3 (f) The board may determine other circumstances qualifying for
4 refunds of remaining unused tuition units and may determine the value
5 of that refund.

6 (2) With the exception of subsection (1)(b) and (e) of this section
7 no refunds may be made before the beneficiary is at least eighteen
8 years of age.

9 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act
10 constitute a new chapter in Title 28B RCW.

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